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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,493	03/30/2004	L. Reg Funk	64,617-013	4900

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EXAMINER

WATSON, ROBERT C

ART UNIT PAPER NUMBER

3723

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,493

Applicant(s)

FUNK ET AL.

Examiner

Robert C. Watson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-75 is/are pending in the application.
- 4a) Of the above claim(s) 61, 64 and 71-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-60, 62-63, 65-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 58-60, 62-63, and 65-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blatz (5,328,154) in view of Extine (4,108,412):

Blatz teaches the use of plural stackable planar bodies having projections on the upper surface and pockets on the lower surface for stacking the planar bodies in a manner to support and level a vehicle. The upper planar body lacks a removable vehicle wheel positional restraint.

Extine teaches the use of a vehicle wheel positioning restraint at Figure 2. Element 30 is a removable positioning restraint with engaging pockets on a lower surface and a curvilinear ramp shaped obstruction on the upper surface at an end thereof. The edge portion on the lower surface below the obstruction may be termed a heel. The positioning restraint 30 is removably received on a first planar body 26 having projections on the upper surface such that the positioning restraint is stacked on the first planar body. The positioning restraint 34 is a fixed positional restraint.

To stack a vehicle positioning restraint such as vehicle wheel positioning restraint 30 or 34 or both of Extine on the Blatz upper surface would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Extine. One of ordinary skill in the art would have been motivated to do this in order to "lock the tire of the wheel in place" (Extine, column 2, line 31). To shape the pockets on the

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lower surface of the positioning restraint to match the projections on the upper surface of the first planar member is considered to be an obvious extension of the broad teachings of Extine; ie., for the elements to be removably stacked the shape of the projections and pockets must match. The chosen shape of the projections and pockets is no more than an obvious matter of design choice absent a showing of criticality for this feature.

Claims 61, 64, and 71-75 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/29/05.

Applicant's remarks have been given careful consideration. Applicant remarks that the positional restraint 34 of Extine is fixed and not removable. But applicant failed to remark on the fact that positional restraint 30 in Extine is removable. The purpose of this "removable" argument is not understood because the term "removable" is not found in the claims. This argument appears to have no point. Applicant appears to be also confused by the fact that Extine in Figure 2 shows two reference characters "36" – one points to the fixed positional restraint (which is 34 in Figure 1) and the other points to a down-turned hook. In any case, it is clear that Extine teaches the use of two positional restraints – a removable one 30 having a heel and fixed one 34. Applicant further argues that there is no motivation to employ the positional restraint having an obstruction as taught by Extine on the wheel positioner of Blatz. Applicant has failed to read the Extine disclosure that states that the positional restraint having an

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obstruction is to "lock the tire of the wheel in place" (Extine, column 2, line 31).

Accordingly, applicant's position that there is no motivation to employ the Extine restraint/obstruction in Blatz is without merit.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rcw

A handwritten signature in black ink, appearing to read "Robert C. Watson", with a stylized, flowing script.

**ROBERT C. WATSON
PRIMARY EXAMINER**